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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,743	12/21/2001	Thomas G. Triebes	KCX-495 (17557)	3702
22827	7590	06/23/2004		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER SIMONE, CATHERINE A	
			ART UNIT	PAPER NUMBER

1772

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,743

Applicant(s)

TRIEBES ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 21-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/23/02</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

- I. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-20, drawn to an elastomeric article, classified in class 428, subclass 35.7.
 - II. Claims 21-35, drawn to a method for forming an elastomeric article, classified in class 427, subclass 452.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed in Invention I can be made by another and materially different process without the steps of the Group II process i.e. dipping a former into liquid solution, evaporating the solvent from the liquid solution present on the former, heating etc.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Jason Johnston on 6/8/04 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 21-35 stand

withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-4, 7 and 13** are rejected under 35 U.S.C. 102(b) as being anticipated by Nash (5,620,773).

Nash discloses an elastomeric article that comprises a substrate body including a layer made of an elastomeric material (see col. 3, lines 19-22), the substrate body having an inside surface and an outside surface; and a chemical protection layer covering the outside surface of the substrate body, the chemical protection layer including at least one modified silicone elastomer that has been crosslinked (see col. 3, lines 31-41 and 53-58). Regarding **claims 2 and 3**, note the modified silicone elastomer is selected from the group consisting of phenyl-modified silicones and methyl-modified silicones (see col. 4, lines 38-41). Regarding **claim 4**, note the modified silicone elastomer contains a diphenyl modified dimethylsilicone (see col. 4, line 39). Regarding **claim 7**, note the chemical protection layer defines an outer surface of the elastomeric article (see col. 4, lines 51-53). Regarding **claim 13**, note the article is a glove (see col. 4, line 49).

4. **Claims 1-3, 5-8, 10 and 13** are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (5,993,923).

Lee discloses an elastomeric article that comprises a substrate body including a layer made of an elastomeric material, the substrate body having an inside surface and an outside surface; and a chemical protection layer covering the outside surface of the substrate body (see col. 15, lines 2-7 and col. 16, lines 20-25 and 30-35), the chemical protection layer including at least one modified silicone elastomer that has been crosslinked (see col. 4, lines 43-48 and col. 8, lines 60-65). Regarding **claims 2 and 3**, note the modified silicone elastomer is selected from the group consisting of vinyl-modified silicones and methyl-modified silicones (see col. 4, lines 43-46 and col. 8, line 67). Regarding **claims 5 and 6**, note the chemical protection layer has a thickness of from about 0.01 millimeters to about 0.30 millimeters and from about 0.01 millimeters to about 0.20 millimeters (see col. 8, lines 52-54). Regarding **claim 7**, note the chemical protection layer defines an outer surface of the elastomeric article (see col. 16, lines 20-25). Regarding **claim 8**, note the elastomeric material of the substrate body is natural rubber latex (see col. 12, line 28). Regarding **claim 10**, note a donning layer overlying the inside surface of the substrate body (see col. 14, lines 55-62). Regarding **claim 13**, note the article is a glove (see col. 15, lines 38-39).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (5,993,923) in view of Nash (5,620,7733).

Lee discloses an elastomeric article that comprises a substrate body including a layer made of an elastomeric material, the substrate body having an inside surface and an outside surface; and a chemical protection layer covering the outside surface of the substrate body (see col. 15, lines 2-7 and col. 16, lines 20-25 and 30-35), the chemical protection layer including at least one modified silicone elastomer that has been crosslinked (see col. 4, lines 43-48 and col. 8, lines 60-65). However, Lee fails to disclose the modified silicone elastomer containing a diphenyl modified dimethylsilicone. Nash teaches that it is old and well-known in the analogous art to have a modified silicone elastomer containing diphenyl modified dimethylsilicone (see col. 4, lines 39-40) for the purpose of producing a chemical protection layer for an elastomeric article such as a glove. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the silicone elastomer in Lee to contain diphenyl modified dimethylsilicone as suggested by Nash in order to produce a chemical protection layer for an elastomeric article such as a glove.

7. **Claims 9, 11 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (5,993,923) in view of Littleton et al. (6,730,380).

Lee discloses an elastomeric article that comprises a substrate body including a layer made of an elastomeric material, the substrate body having an inside surface and an outside surface; and a chemical protection layer covering the outside surface of the substrate body (see col. 15, lines 2-7 and col. 16, lines 20-25 and 30-35), the chemical protection layer including at

least one modified silicone elastomer that has been crosslinked (see col. 4, lines 43-48 and col. 8, lines 60-65). However, Lee fails to disclose the elastomeric material of the substrate body containing at least one styrene-ethylene-butylene-styrene triblock copolymer, the donning layer containing syndiotactic 1,2 polybutadiene and a lubricant layer overlying the inside surface of the donning layer. Littleton et al. teaches that it is old and well-known in the analogous art to have an elastomeric material of a substrate body containing at least one styrene-ethylene-butylene-styrene triblock copolymer (see col. 2, lines 24-29), a donning layer containing syndiotactic 1,2 polybutadiene (see col. 2, lines 30-32) and a lubricant layer overlying the inside surface of the donning layer (see col. 2, lines 32-35) for the purpose of producing an elastomeric article such as a glove. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the rubber article in Lee with an elastomeric material containing at least one styrene-ethylene-butylene-styrene triblock copolymer, a donning layer containing syndiotactic 1,2 polybutadiene and a lubricant layer overlying the inside surface of the donning layer as suggested by Littleton et al. in order to produce an elastomeric article such as a glove.

8. **Claims 14-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (5,993,923) in view of Littleton et al. (5,792,531).

Lee discloses an elastomeric glove that comprises a substrate body including a layer made of an elastomeric material, the substrate body having an inside surface and an outside surface; and a chemical protection layer covering the outside surface of the substrate body (see col. 15, lines 2-7 and col. 16, lines 20-25 and 30-35), the chemical protection layer including at least one modified silicone elastomer that has been crosslinked (see col. 4, lines 43-48 and col. 8,

lines 60-65), wherein the modified silicone elastomer is selected from vinyl-modified silicones and methyl-modified silicones (see col. 4, lines 43-60 and col. 8, line 67). However, Lee fails to disclose the elastomeric material of the substrate body containing at least one styrene-ethylene-butylene-styrene triblock copolymer. Littleton et al. teaches that it is old and well-known in the analogous art to have an elastomeric material of a substrate body containing at least one styrene-ethylene-butylene-styrene triblock copolymer (see col. 2, lines 14-18) for the purpose of producing an elastomeric glove. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the elastomeric material of the substrate body in Lee to contain at least one styrene-ethylene-butylene-styrene triblock copolymer as suggested by Littleton et al. in order to produce an elastomeric glove.

Regarding **claim 15**, note in Lee the modified silicone elastomer is selected from the group consisting of vinyl-modified silicones and methyl-modified silicones (see col. 4, lines 43-46 and col. 8, line 67). Regarding **claims 16 and 17**, note in Lee the chemical protection layer has a thickness of from about 0.01 millimeters to about 0.30 millimeters and from about 0.01 millimeters to about 0.20 millimeters (see col. 8, lines 52-54). Regarding **claim 18**, note in Lee the chemical protection layer defines an outer surface of the elastomeric article (see col. 16, lines 20-25). Regarding **claim 19**, note in Lee a donning layer overlying the inside surface of the substrate body (see col. 14, lines 55-62).

Furthermore, regarding **claim 20**, Lee fails to disclose a lubricant layer overlying the inside surface of the donning layer. Littleton et al. teaches that it is old and well-known in the analogous art to have a lubricant layer overlying the inside surface of a donning layer (see col. 4, lines 30-38) for the purpose of producing an elastomeric glove. Therefore, it would have been

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obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided a lubricant layer to overlie the inside surface of the donning layer in Lee as suggested by Littleton et al. in order to produce an elastomeric glove.

Conclusion

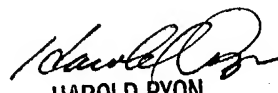
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine Simone
Examiner
Art Unit 1772
June 17, 2004



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

6/18/04